

PART 4¹

NONCONFORMING USES AND BUILDINGS

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- 14-2-401 INTENT**

Generally, it is the intent of this Ordinance that buildings, structures or uses of land in existence at the time of the effective date of this Ordinance, but not in conformance therewith, not be increased or expanded. However, under unusual circumstances such nonconforming buildings and uses may be expanded or increased as provided in this Ordinance.

14-2-402 DEFINITIONS

As used in this Ordinance, a nonconforming building or structure and a nonconforming use are defined as follows:

Conforming use: a use that lawfully exists at its location, and which is in conformity with current zoning requirements. However, a residential use which lawfully existed and was in conformity with then-current zoning requirements, but which would be rendered non-conforming under new zoning laws, shall nonetheless be considered a conforming use so long as the use is continuous from the period of legality.

Nonconforming building or structure: a building or structure, or portion thereof, which lawfully existed before the effective date of this Ordinance or an amendment to the Zoning Ordinance, which does not now conform to the height, floor area, yard, International² Building

¹Amended 1/13/99 Ordinance No. 99-1

²Amended 5/14/2002 Ordinance No. 2002-08

Code or other current requirements of this Ordinance for the zone in which it is located.

Nonconforming use: a use which was lawfully established and maintained before the effective date of this Ordinance or an amendment to the Zoning Ordinance and which may be continued despite changes in the ordinance which would prohibit or limit such uses if introduced after the date of this Ordinance.

14-2-403 NONCONFORMING USES

A nonconforming use of land lawfully existing on the effective date of this Ordinance may be continued provided such nonconforming use shall not be expanded, extended into any other portion of a conforming building or open land, and no structures, additions, alterations, or enlargements thereto shall be made thereon, except those required by law. If said nonconforming use is discontinued for a continuous period of more than six (6) months, any future use of such land shall conform to the provisions of the zone in which it is located.

14-2-404 NONCONFORMING BUILDINGS

A nonconforming building in any zone may be continued provided no additions or enlargements are made thereto and no structural alterations are made therein, except those prescribed by law, are necessary for the strengthening or restoring to a safe condition any part of the building declared unsafe by proper authority or are granted a special permit by the Board of Adjustment for expansion or structural alteration as provided in Section 14-2-405 of this Chapter.

14-2-405 EXPANSION OR STRUCTURAL ALTERATION OF A NONCONFORMING USE OR BUILDING

A special permit for expansion or structural alteration of a nonconforming use or building may be granted by the Board of Adjustment. Application for such expansion or structural alteration shall be made and considered in the manner set forth in Chapter 2, Part 2 of this Ordinance for Conditional Uses.

14-2-406 NATURAL EXPANSION OF A NONCONFORMING BUSINESS USE

Notwithstanding Sections 14-2-405 and 14-2-406 of this Chapter, where the original nature and purpose of a business remain the same and a nonconforming use is not changed in character, a mere increase in the volume of business by natural expansion and growth of trade cannot be considered an unlawful extension of the nonconforming use. Such natural expansion and growth may occur by application for and the granting of a Conditional Use Permit and site plan approval by the Planning Commission.

14-2-407 CHANGE IN STATUS OF NONCONFORMING USE OR BUILDING DUE TO INTENTIONAL DEMOLITION

A nonconforming building or use of land intentionally demolished by the owner of said use or

building may not be changed to any other nonconforming building or use. Any new use or building shall be in conformity with the current provisions of this Ordinance. After a change to a conforming use is in effect, that change shall be evidence that the nonconforming building or use has been abandoned and thereupon loses any vested right as such. Subsequently, any newly conforming building or use shall not be changed back to a nonconforming building or use.

**14-2-408 RECONSTRUCTION OF NONCONFORMING USE OR BUILDING
DESTROYED BY FIRE, EXPLOSION, OR OTHER CASUALTY OR ACT OF
GOD**

A nonconforming building destroyed by fire, explosion, or other casualty or act of God, or public enemy, may be restored and the occupancy or use of such building or part thereof which existed at the time of such partial destruction may be continued subject to all of the provisions of this Ordinance.

14-2-409 NONCONFORMING USES DETRIMENTAL TO HEALTH AND SAFETY

No provisions of this Chapter shall be construed to allow the continuance of any nonconforming use when such use is detrimental to the health, safety, and welfare of the general public.

14-2-410 NONCONFORMING STATUS NOT AUTOMATICALLY GRANTED

Any building, structure, or use of land or any construction thereon which was not authorized by or allowed under the pre-existing zoning ordinance(s), as amended, or which is illegal under such ordinance, shall remain unauthorized and illegal unless expressly authorized or permitted in the provisions of this Ordinance. The burden of proof of the legal nonconforming status of any property or use shall be the responsibility of the landowner.

